

Message Text

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SUBJECT: NARCOTICS LAWS IN ZAIRE

REF: STATE 170187

1. SUMMARY: THIS MESSAGE ANSWERS QUESTIONS ON NARCOTIC LAWS IN ZAIRE POSED REFTEL. END SUMMARY.

2. IN ZAIRE THERE ARE ONLY TWO LAWS THAT DEAL WITH NARCOTICS. THE FIRST WAS PROMULGATED 22 JANUARY 1903 AND MODIFIED 10 MARCH 1917. ACCORDING TO THIS STATUTE THE "USE, SALE, POSSESSION, CULTIVATION AND TRANSPORT" OF MARIJUANA IS PROHIBITED. THE PENALTY CITED FOR ANY OF THESE ACTS IS A FINE OF 1,000 BELGIAN CONGO FRANCS, 15 DAYS TO ONE YEAR IN PRISON, OR BOTH. VILLAGE CHIEFS ARE RESPONSIBLE FOR THE COLLECTION OF FINES.

2. THE SECOND STATUTE, WHICH IS IN THE CODE OF MILITARY JUSTICE WAS PROMULGATED 5 FEBRUARY 1967 AND MODIFIED 14 JANUARY 1972. (FYI: MILITARY LAW IS APPLICABLE TO CIVILIANS. IT IS DIFFERENTIATED FROM THE CIVILIAN CODE ONLY IN THAT OFFENDERS ARE TRIED BY A MILITARY COURT.) IT IS ENTITLED, "TENDING TO REINFORCE THE PROTECTION OF CERTAIN SUBSTANCES AGAINST THEFT." THIS LAW PROHIBITS THE TRAFFICKING AND POSSESSION OF CERTAIN " SUBSTANCES" WITHOUT LEGAL
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TITLE. AMONG THE LIST OF "SUBSTANCES" IS ONLY ONE NARCOTIC, COCAINE. THIS VIOLATION IS PUNISHABLE BY 10 TO 20 YEARS OF PENAL SERVICE. LOCAL ATTORNEYS POINT OUT THAT THIS STATUTE ONLY PENALIZES THOSE WHO LACK LEGAL TITLE TO THE "SUBSTANCE". THEREFORE, POSSESSION OF COCAINE IS NOT IN ITSELF ILLEGAL.

3. THE FACT THAT THE GOZ HAS NOT PASSED LAWS DEALING WITH HEROIN

AND HARD DRUGS (OTHER THAN COCAINE). INDICATES THAT TRAFFICKING IN THESE ITEMS IS NOT CONSIDERED TO BE A LOCAL PROBLEM. SHOULD CASES OF SUCH TRAFFICKING COME TO THE ATTENTION OF ZAIRIAN AUTHORITIES, THE GOZ WOULD PROBABLY USE SOME MORE GENERAL PROVISION OF THE LAW TO DEAL WITH THE MATTER (CUSTOMS AND CURRENCY REGULATIONS, CONTROL OVER ALIENS, ETC.).

4. SPECIFICS MENTIONED IN PARAGRAPHS 2 AND 3 OF REFTTEL ARE NOT APPLICABLE EXCEPT AS STATED ABOVE.

5. THIS PARAGRAPH IS KEYED TO PARAGRAPH 4 REFTTEL (A) NOT APPLICABLE EXCEPT AS NOTED ABOVE. (B) ZAIRIAN LAW PROHIBITS THE IMPORT OF EXPORT OF ITS CURRENCY. IT IS ALSO ILLEGAL FOR ZAIRIAN CITIZENS TO OWN FOREIGN CURRENCY OR TO HAVE FOREIGN BANK ACCOUNTS.

6. THIS PARAGRAPH IS KEYED TO PARAGRAPH 5 OF REFTTEL. 5 (A) BY LAW INVESTIGATIVE DETENTION IS PERMITTED FOR AN INITIAL PERIOD OF 8 DAYS. AFTER 8 DAYS THE DETAINEE MUST BE GIVEN A HEARING. FOLLOWING THE HEARING, THE DETENTION MAY BE PROLONGED 15 DAYS. THERE IS NO LIMIT TO THE NUMBER OF PROLONGATIONS. IN PRACTICE, INVESTIGATIVE DETENTION FOLLOWS THE LAW CLOSELY (AT LEAST FOR SIMPLE CIVIL CASES). CONSULAR ACCESS IS FREELY GRANTED AND THE EMBASSY IS INFORMED PROMPTLY OF ARRESTS OF U.S. CITIZENS. 5 (B) THERE IS NO CUSTOMARY LENGTH OF PRE-TRIAL DETENTION, EACH CASE IS TREATED SEPARATELY. 5(C)(I) THE TRIAL PROCESS ITSELF
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IS NORMALLY VERY SHORT, TAKING 2 OR 3 HOURS. 5 (C)(II) THERE IS NO REVIEW/CONFIRMATION PROCEEDING. 5(C)(III) DEFENDENT MUST APPEAL WITHIN 10 DAYS. 5(D) PROVISION IS MADE FOR FREE LEGAL COUNSEL. HOWEVER, IN PRACTICE AMERICANS WOULD NOT BE GIVEN THIS ASSISTANCE. THERE IS AN AMERICAN LAW FIRM IN KINSHASA WHICH CAN AND HAS HANDLED CASES FALLING UNDER THE ABOVE MENTIONED STATUTES. THEIR FEE WOULD BE APPROXIMATELY \$4,000. 5(E) THERE IS A PROVISION FOR PAROLE AT THE DISCRETION OF THE COURT. IT IS IN PRACTICE GRANTED. 5(F) IT IS CUSTOMARY FOR THE GOZ TO ATTEMPT TO EXPEL AMERICAN LAW BREAKERS BEFORE COURT PROCEEDINGS COMMENCE.
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